

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION

**MACK-RAY, INC.**

Plaintiff,

V.

THE J.M. SMUCKER COMPANY,

Defendant.

SEAQUIST CLOSURES, L.L.C.,

Third Party Intervenor and  
Plaintiff,

V.

MACK-RAY, INC.

Defendant to Intervenor's  
Complaint.

Case No: 5:10-cv-127 DF

## JURY TRIAL DEMANDED

## **REVISED DOCKET CONTROL ORDER**

<b>STEP</b>	<b>ACTION</b>	<b>RULE</b>	<b>DATE DUE</b>
1	Initial Case Management Conference	P. R. 2-1 FRCP 26(f)	February 22, 2011 at 10:30 a.m.
2	Patentee serves Disclosure of Asserted Claims and Preliminary Infringement Contentions of a reasonable number of representative claims	P.R. 3-1	February 11, 2011  No later than 10 days before the initial management conference.
3	Patentee makes Document Production Accompanying Disclosure	P.R. 3-2	February 11, 2011  Same as 2
4	Initial Disclosures	FRCP 26(a)(1)	March 22, 2011  At or within 14 days of initial management conference

5	Accused Infringer serves Preliminary Invalidity Contentions	P.R. 3-3	March 29, 2011  Not later than 45 days after Patentee serves preliminary infringement contentions
6	Accused Infringer makes Document Production Accompanying Preliminary Invalidity Contentions	P.R. 3-4	March 29, 2011  Same as 5
7	All parties make Exchange of Proposed Terms and Claim Elements for Construction	P.R. 4-1(a)	April 8, 2011  Not later than 10 days after Accused infringer serves preliminary invalidity contentions
8	Patentee shall limit the number of asserted claims to no more than ten (10) and notify the accused infringer and Court		April 14, 2011  After 7 but before 9
9	All parties meet and confer to discuss list of Proposed Terms and Claim Elements for Construction	P. R. 4-1(b)	April 21, 2011  After 8 but before 11
10	Deadline for early mediation at the Parties' request		
11	All parties make Exchange of Preliminary Claim Constructions and Extrinsic Evidence	P. R. 4-2	April 28, 2011  Not later than 20 days after 7
12	All parties meet and confer to discuss Preliminary Claim Constructions and Extrinsic Evidence	P. R. 4-2(c)	May 12, 2011  After 11 but before 13
13	All parties jointly file Joint Claim Construction and Prehearing Statement	P. R. 4-3	May 31, 2011  Not later than 60 days after 5
14	Deadline to join other parties without leave of Court, which shall be at least 60		May 31, 2011  Same as 13

	days before the deadline for filing dispositive motions		
15	Deadline to file amended pleadings without leave of Court, which shall be at least 30 days before the deadline for dispositive motions		
16	Completion of Claim Construction Discovery	P. R. 4-4	June 30, 2011 Not later than 30 days after 13
17	Patentee files opening claim construction brief	P R. 4-5(a)	July 15, 2011 Not later than 45 days after 13
18	Accused Infringer files responsive claim construction brief	P. R. 4-5(b)	July 29, 2011 Not later than 14 days after 17
19	Patentee files reply brief on claim construction	P. R. 4-5(c)	August 5, 2011 Not later than 7 days after 18
20	ONLY WITH LEAVE OF COURT Accused infringer files sur-reply brief on claim construction		August 12, 2011 Not later than 7 days after 19
21	Parties file Joint Claim Construction Chart	P. R. 4-5(d)	August 19, 2011 At least 10 days before Claim Construction Hearing
22	Pre-hearing Conference and technical tutorial if necessary		August 31, 2011 The day before the Claim Construction Hearing or the day of the Claim Construction Hearing
23	Claim Construction Hearing	P. R. 4-6	August 31, 2011 at 9:00 AM
24	Court's Claim Construction Ruling		On or about (3 weeks after 23) subject to the Court's scheduling and/or use of a technical advisor <DO NOT PUT IN A DATE>
25	Patentee makes Final	P. R. 3-6(a)	

	Infringement Contentions		On or about 30 days after claim construction ruling <b>&lt;DO NOT PUT IN A DATE&gt;</b>
26	Accused Infringer serves Preliminary Unenforceability Contentions		On or about 40 days after claim construction ruling <b>&lt;DO NOT PUT IN A DATE&gt;</b>
27	Accused Infringer makes Document Production Accompanying Preliminary Unenforceability Contentions		On or about 40 days after claim construction ruling <b>&lt;DO NOT PUT IN A DATE&gt;</b>
28	Accused Infringer makes Final Invalidity Contentions	P.R. 3-6(b)	On or about 50 days after claim construction ruling <b>&lt;DO NOT PUT IN A DATE&gt;</b>
29	Accused Infringer makes disclosure relating to willfulness	P.R. 3-7	On or about 50 days after claim construction ruling <b>&lt;DO NOT PUT IN A DATE&gt;</b>
30	Accused Infringer makes Final Unenforceability Contentions		On or about 60 days after claim construction ruling <b>&lt;DO NOT PUT IN A DATE&gt;</b>
31	Deadline for completion of all fact discovery, which shall be at least 90 days before the final pretrial conference		On or about 80 days after claim construction ruling <b>&lt;DO NOT PUT IN A DATE&gt;</b>
32	Deadline for disclosure of expert testimony on issues for which a party bears the burden of proof	FRCP 26(a)(2) L.R. CV-26(b)	On or about 90 days after claim construction ruling <b>&lt;DO NOT PUT IN A DATE&gt;</b>
33	Deadline for disclosure of rebuttal expert testimony	FRCP 26(a)(2) L.R. CV-26(b)	On or about 110 days after claim construction ruling <b>&lt;DO NOT PUT IN A DATE&gt;</b>
34	Deadline for late mediation at the Parties' request		
35	Deadline for completion of expert discovery		30 days after rebuttal expert testimony

36	Deadline for objections to other parties' expert Witnesses		After 35
37	Deadline for filing dispositive motions, including motions on invalidity and unenforceability, which shall be at least 75 days before the initial pretrial conference		At least 75 days before initial pretrial conference
38	Deadline for filing all <i>Daubert</i> motions		Same as 37
39	Deadline for parties to make pretrial disclosures		At least 30 days before initial pretrial conference
40	Patentee to provide to other parties its information for Joint Final Pretrial Order, Proposed Jury Instruction and Verdict Form		At least 30 days before initial pretrial conference
41	Defendant and Thirdparties to Provide to Patentee their information for Joint Final Pretrial Order, Proposed Jury Instruction and Verdict Form		At least 30 days before initial pretrial conference
42	Parties to file Proposed Joint Final Pretrial Order, Proposed Jury Instructions, Joint Verdict Forms and Motions in Limine. Prior to initial pretrial conference, parties shall confer with each other regarding the other party's Motion in Limine, deposition designations, and exhibit and shall submit to the Court in writing any objections they may have to the other party's Motions		At least 2 weeks before initial pretrial conference

	in Limine, deposition designations, and exhibits.		
43	Initial Pretrial Conference and hearing on Motions in Limine if required and hearing on objections to deposition designations and exhibits		<b>Court will set at a later date.</b>
44	Final Pretrial Conference before Chief Judge David Folsom		April 2, 2012
45	Jury Selection before Chief Judge David Folsom		April 3, 2012

**SIGNED this 28th day of February, 2011.**



DAVID FOLSOM  
UNITED STATES DISTRICT JUDGE